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10/658,338	09/10/2003	Michael W. Bosse	23122.01	1867

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EXAMINER
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BLAKE, CAROLYN T

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/658,338

Applicant(s)

BOSSE, MICHAEL W.

Examiner

Carolyn T Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because reference number 22 is pointing to the incorrect part in FIG 5A. According to the specification and the other drawings, reference number 22 refers to the cutting tool end. However, in FIG 5A, reference number 22 appears to be pointing to the tool piece end.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The abstract of the disclosure is objected to because the legal term "comprises" is used on line 5. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

4. Claim 1 is objected to because of the following:

- Lines 16-17: "The first and the second impact collar" should be changed to  
- -the first and the second impacts collars- -.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (D272,712). See the *Figures* section at the end of this Office action.

Regarding claim 1, Allen teaches a lock removal tool (1), comprising: an elongated bar (2) having a first end and a second end; a lock cutting tool (3) disposed on the first end of said bar (2), the lock cutting tool (3) being a generally rectangular, flat plate having leading (4) and trailing edges (5) and top and bottom surfaces, said bar (2) being joined to the lock cutting tool (3) generally between the leading (4) and trailing (5) edges, said bar (2) being angled away the top surface and extending rearward from the lock cutting tool (3); a tool piece (6) extending from the second end of said bar (2)

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axially aligned with said bar (2); a first impact collar (7) disposed on said bar (2) near the first end; a second impact collar (8) disposed on said bar near the second end; and a weight (9) slidably disposed on said bar (2) between the first (7) and second (8) impact collars. Note: impact collars (7, 8) are defined as such because they are circular members that impact the tool piece (6) and the lower collar.

Regarding claim 6, Allen teaches the leading edge (4) of said lock cutting tool (3) is bifurcated to form a cutting slot (10), the cutting slot (10) being a generally "V" shaped slot having inner edges.

Regarding claim 7, the top surface of the lock cutting tool (3) is tapered along the leading edge (4).

Regarding claim 8, Allen teaches the leading edge (4) of said lock cutting tool (3) is bifurcated to form a cutting slot (10) being a generally "V" shaped slot having inner edges, the top surface of said cutting tool being tapered along the inner edges (11) of said cutting slot (10).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 6-8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gue (3,468,657) in view of Gallo (6,308,934).

Regarding claim 1, Gue discloses a lock removal tool comprising: an elongated bar (10) having a first end and a second end; a lock cutting tool (20) disposed on the first end of said bar (10), a tool piece (18) extending from the second end of said bar (10) axially aligned with said bar (10); a first impact collar (24) disposed on said bar (10) near the first end; a second impact collar (22) disposed on said bar (10) near the second end; and a weight (26) slidably disposed on said bar (10) between the first (24) and second (22) impact collars. Gue fails to disclose the lock cutting tool is a generally rectangular, flat plate joined to the bar between its leading and trailing edges. However, Gallo discloses a lock removal tool comprising an elongated bar (12) having a first end and a second end; a lock cutting tool (18) disposed on the first end of said bar (12), the lock cutting tool (18) being a generally rectangular, flat plate having leading (20) and trailing edges and top and bottom surfaces, said bar (12) being joined to the lock cutting tool (18) generally between the leading and trailing edges, said bar (12) being angled away from the top surface and extending rearward from the lock cutting tool (18); a first impact collar (14) disposed on said bar (12) near the first end; a second impact collar (16) disposed on said bar (12) near the second end; and a weight (32) slidably disposed on said bar (12) between the first (14) and second (16) impact collars. Unlike the Gue device, the lock cutting tool of the Gallo device allows for prying of the lock from the door. Therefore, it would have been obvious to one of ordinary skill in the art to provide a different lock cutting tool, as disclosed by Gallo, on the Gue device for the purpose of cutting and prying the lock from the door.

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Regarding claim 2, Gue discloses the tool piece (18) comprises a length of metal stock (specifically steel). See col. 1, line 56.

Regarding claim 6, Gallo discloses the leading edge (20) of the lock cutting tool (18) is bifurcated to form a cutting slot (22), the cutting slot (22) being a generally "V" shaped slot having inner edges.

Regarding claim 7, Gallo discloses the top surface of the lock cutting tool (18) is tapered along the leading edges.

Regarding claim 8, Gallo discloses the leading edge of the lock cutting tool (18) is bifurcated to form a cutting slot (22), the cutting slot being a generally "V" shaped slot having inner edges, the top surface of said cutting tool (18) being tapered along the inner edges of the cutting slot (22).

Regarding claim 13, Gallo discloses the bar (12) and the lock cutting tool (18) are joined at an angle of between 15 and 45 degrees.

9. Claim 2 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Allen (D272,712). The cross sections in FIGS 2A and 4 appear to be metal. Therefore, there is a high probability the entire tool, including the tool piece, is formed from metal. However, to the degree it can be argued this is speculative, Official notice is taken it is old and well known in the art to form threaded nuts, such as the tool piece (6), of metal. Therefore, to form parts of metal would have been obvious in order to make the entire tool from metal and long lasting.

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10. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gue in view of Gallo applied to claims 1 and 2 above, and further in view Skamser (D153,182).

Regarding claim 3, Gue in view of Gallo fails to disclose the metal stock is square. However, Skamser discloses a tool piece wherein the metal stock is square. See bottom of FIGS 1 and 2. Considering a manufacturing standpoint, the square stock would be easier to machine than the round stock used in the Gue and Gallo devices. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use square stock for the tool piece, as disclosed by Skamser, on the Gue in view of Gallo device for the purpose of easily machining the device.

Regarding claim 4, Gue discloses the metal stock is tapered to define a blade (18).

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen as applied to claim 1 above, and further in view of Kraus (4,235,269). Allen teaches the second end of said bar (2) has a tool piece receptacle defined therein, but fails to teach a set screw. However, Kraus discloses a set screw aperture and a set screw (16) engaging the set screw aperture, whereby a tool piece is removably retained. The set screw (16) secures the removable component in place until it is desired to detach it. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a set screw and aperture, as disclosed by Kraus, on the Allen device for the purpose of securing the removable component until it is desired to detach it.

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12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gue in view of Gallo as applied to claim 1 above, and further in view of Kraus (4,235,269). Gue in view of Gallo fails to disclose a tool piece receptacle or a set screw. However, Kraus discloses a tool piece receptacle that allows the tip of the tool piece (1) to be removed from the bar (20). Making the tool piece removable allows the part to be changed according to the operator's needs. See Abstract. In addition, Kraus discloses a set screw aperture and a set screw (16) engaging the set screw aperture, whereby a tool piece (1) is removably retained. The set screw (16) secures the removable component in place until it is desired to detach it. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide tool piece receptacle and set screw, as disclosed by Kraus, on the Gue in view of Gallo device for the purposes of replacing and securing the tool piece.

13. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen as applied to claim 1 above, and further in view of Lampe (6,213,527).

Regarding claim 9, Allen fails to teach the top surface of the lock removal tool is tapered along the trailing edge. However, Lampe discloses a lock removal tool with an elongated bar (1) and a lock cutting tool (2). The top surface of the lock cutting tool (2) is tapered along the trailing edge (22). This feature creates a sharpened surface that allows the trailing edge to perform different tasks, such as chopping (col. 4, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tapered trailing edge, as disclosed by Lampe, on the Allen device for the purpose of creating two operable edges on the lock cutting tool.

Regarding claim 11, Allen fails to teach at least one groove formed in the top surface of the cutting tool. However, Lampe discloses a cutting tool (2) with at least one groove (8) extending transversely across the top surface. The grooves (8) grip and provide friction when an object is place on top of the tool. See FIGS. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one groove, as disclosed by Lampe, on the Allen device for the purpose of gripping an object on top of the top.

14. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gue in view of Gallo as applied to claim 1 above, and further in view of Lampe.

Regarding claim 9, Gue in view of Gallo fails to disclose the top surface of the lock removal tool is tapered along the trailing edge. However, Lampe discloses a lock removal tool with an elongated bar (1) and a lock cutting tool (2). The top surface of the lock cutting tool (2) is tapered along the trailing edge (22). This feature creates a sharpened surface that allows the trailing edge to perform different tasks, such as chopping (col. 4, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tapered trailing edge, as disclosed by Lampe, on the Gue in view of Gallo device for the purpose of creating two operable edges on the lock cutting tool.

Regarding claim 11, Gue in view of Gallo fails to disclose at least one groove formed in the top surface of the cutting tool. However, Lampe discloses a cutting tool (2) with at least one groove (8) extending transversely across the top surface. The grooves (8) grip and provide friction when an object is place on top of the tool. See

FIGS. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one groove, as disclosed by Lampe, on the Gue in view of Gallo device for the purpose of gripping an object on top of the top.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen ('712) as applied to claim 1 above, and further in view of Allen (D262,513). Allen ('712) fails to teach the bottom surface of the cutting tool is curved at the leading edge. However, Allen ('513) teaches a lock removal tool wherein the bottom surface of the cutting tool is curved at the leading edge. See FIG 1. The curved bottom surface allows for a rocking motion during lock removal that would ease the process. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a curved bottom surface on the leading edge of the lock cutting tool, as taught by Allen ('513), on the Allen ('712) device in order to ease the removal purpose through rocking.

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gue in view of Gallo as applied to claim 1 above, and further in view of Allen ('513). Gue in view of Gallo fails to disclose the bottom surface of the cutting tool is curved at the leading edge. However, Allen teaches a lock removal tool wherein the bottom surface of the cutting tool is curved at the leading edge. See FIG 1. The curved bottom surface allows for a rocking motion during lock removal that would ease the process. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a curved bottom surface on the leading edge of the lock

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cutting tool, as taught by Allen, on the Gue in view of Gallo device in order to ease the removal purpose through rocking.

17. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen as applied to claim 1 above, and further in view of Harpell (6,098,292).

Regarding claim 12, Allen fails to teach at least one groove formed in the bottom surface of the cutting tool. However, Harpell discloses a cutting tool (3) with at least one groove (41) extending transversely across the bottom surface. The groove strengthens the tool (col. 4, lines 23-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one groove on the bottom surface of the cutting tool, as disclosed by Harpell, on the Allen device for the purpose of strengthening the tool.

Regarding claim 13, Allen fails to teach the bar and lock cutting tool are joined at an angle between 15 and 45 degrees. However, Harpell discloses a removal tool wherein a bar and a cutting tool are joined at an angle of between 15 and 45 degrees. See col. 5, lines 32-36. This angle is particularly useful for demolition work, especially prying (col. 5, lines 36-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an angle of 15 to 45 degrees between the bar and lock cutting tool, as disclosed by Harpell, on the Allen device for the purpose of effectively prying the lock from the door.

18. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gue in view of Gallo as applied to claim 1 above, and further in view of Harpell. Gue in view of Gallo fails to disclose at least one groove formed in the bottom surface of the cutting

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tool. However, Harpell discloses a cutting tool (3) with at least one groove (41) extending transversely across the bottom surface. The groove strengthens the tool (col. 4, lines 23-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one groove on the bottom surface of the cutting tool, as disclosed by Harpell, on the Gue in view of Gallo device for the purpose of strengthening the tool.

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**Figures**

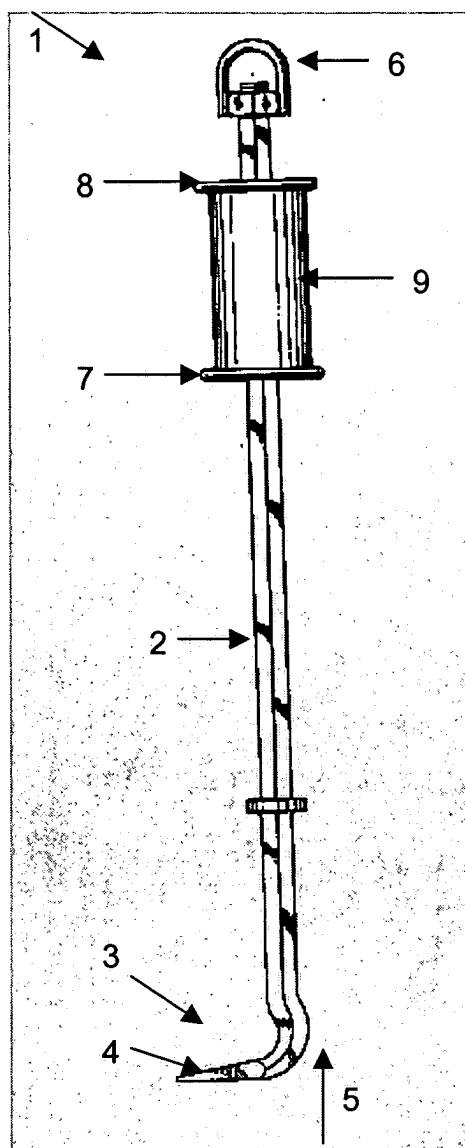
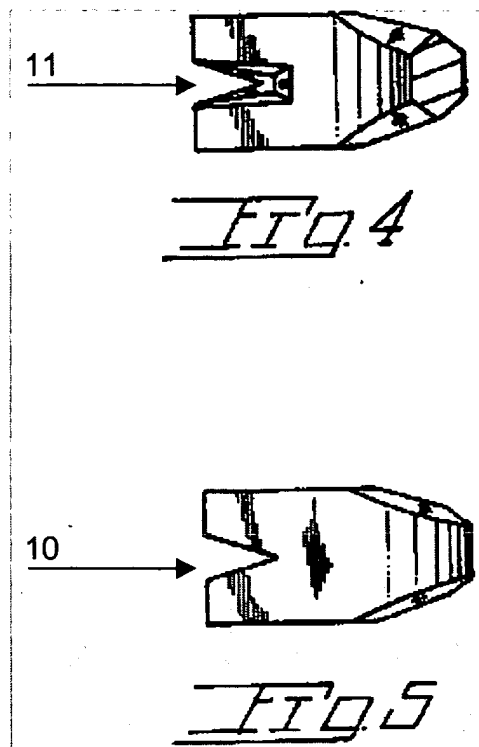


Figure 1 of D272,712 to Allen. Lead lines and reference numbers added by the examiner.



Figures 4 and 5 of D272,712 to Allen. Lead lines and reference numbers added by the examiner.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herndon et al (6,378,550), Evinger (5,370,192), Buris (4,454,792), Boyer (D363,15), Flanigan (3,757,409), and Lowther et al (6,125,719) disclose removal tools. Chacon (5,720,063) discloses a removal tool with a cutting tool, tool piece, tool piece receptacle, and set screw. Fletcher (435,538) and Smith (4,497,355) disclose removal tools with grooves.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 28, 2005



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